

**2009 DRAFTING REQUEST**

**Bill**

Received: **09/30/2008**

Received By: **tkuczens**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Miner**

This file may be shown to any legislator: **NO**

Drafter: **tkuczens**

May Contact:

Addl. Drafters:

Subject: **Agriculture - other**

Extra Copies: **RCT**

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Miner, BB0141 -

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**Topic:**

Enforcement cost recovery

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/P1	tkuczens 10/13/2008	jdye 10/14/2008	rschlue 10/14/2008	_____	sbasford 10/14/2008		

FE Sent For:

**<END>**

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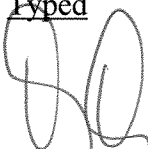
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Enforcement cost recovery

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See attached

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/?	tkuczens	PI 10/14/08		==			

FE Sent For:

<END>

## 2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Enforcement Cost Recovery
- Tracking Code: BB0141
- SBO team: Agriculture, Environment and Justice
- SBO analyst: Andrew Miner AM
  - Phone: 266-1103
  - Email: andrew.miner@wisconsin.gov
- Agency acronym: DATCP
- Agency number: 115
- Priority (Low, Medium, High): Medium

Intent: Amend current law to allow a court to order a defendant to reimburse DATCP for its reasonable, documented costs to prepare and prosecute a court action. See attached sheet for language suggestions.

## 2. Enforcement Cost Recovery

### Explanation:

Under current law (s. 93.20, Stats.), in a court action brought by or on behalf of DATCP to enforce any of the laws under its jurisdiction (chs. 88, 91 to 100 or 126, Stats.), the court may order the defendant to reimburse DATCP costs for any of the following:

- Expert witnesses (other than DATCP employees).
- Depositions, transcripts or photocopying.
- Any investigation, study, analysis, engineering report, test or project needed for the preparation of the action. This may include salary and other costs for DATCP laboratory personnel, but not other DATCP personnel.

DATCP proposes budget legislation to amend current law, so that the court may order the defendant to reimburse DATCP for its reasonable, documented costs to prepare and prosecute the court action, including but not limited to the costs specifically itemized under current law.

### Statutory Language:

SECTION \_\_\_\_\_. 93.20(2) of the statutes is amended to read:

93.20(2) ENFORCEMENT COSTS ORDER. If a court imposes costs under s. 814.04 or 973.06 against a defendant in any action, the court may order that defendant to ~~pay to reimburse the department any of the enforcement costs specified under sub. (3) for~~ reasonable, documented costs that the department has incurred to prepare and prosecute that action. The prosecutor shall present evidence of the enforcement costs and the defendant shall be given an opportunity to refute that evidence. If any cost that a court orders a defendant to pay under this section may also be recovered by the department under s. 814.04 or 973.06, the department may recover that cost only under this section, but that cost is not limited to the amounts specified in s. 814.04 or 973.06.

SECTION \_\_\_\_\_. 93.20(3) and (4) of statutes are repealed.

am. 20.115 (8)(gm)



State of Wisconsin  
2009 - 2010 LEGISLATURE

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LRB-0462/2

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DOA:.....Miner, BB0141 - Enforcement cost recovery✓

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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1 AN ACT ...; relating to: the budget.✓

*Analysis by the Legislative Reference Bureau*

**AGRICULTURE**✓

\* Under current law, a court may order a defendant in a court action brought by or on behalf of DATCP to reimburse DATCP for specific costs that DATCP reasonably incurs to enforce laws under its jurisdiction. These costs are identified under current law as: the costs of expert witnesses who are not employees of the department; the costs of depositions, transcripts, or photocopying; and any investigation, study, analysis, engineering report, test, or project that the court finds necessary for the preparation of the action.

This bill eliminates the itemized list of costs and provides that DATCP may be reimbursed for reasonable, documented enforcement costs incurred by the agency to prepare and prosecute the action.✓

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

DATCP

DATCP✓

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

2 SECTION 1. 20.115 (8) (gm) of the statutes is amended to read:✓

20.115 (8) (gm) *Enforcement cost recovery.* The amounts in the schedule for the purpose of enforcement. ~~Except as provided in s. 93.20 (4), all~~ All moneys received by the department pursuant to a court order under s. 93.20 (2) as reimbursement of enforcement costs, or as part of a settlement agreement or deferred prosecution agreement that includes amounts for enforcement costs described in s. 93.20 (3), shall be credited to this appropriation.

**History:** 1971 c. 125, 215; 1973 c. 90, 299, 333; 1975 c. 39 ss. 78m, 79, 79m, 79n, 732 (1); 1975 c. 224; 1975 c. 394 ss. 1, 27; 1977 c. 29 ss. 112 to 115v, 1650m (1), (4), 1654 (1); 1977 c. 87, 106, 181, 418; 1979 c. 34, 129, 221, 289, 335; 1981 c. 20, 66, 93, 283, 346, 357; 1983 a. 27, 132, 368; 1983 a. 410 ss. 5, 2202 (2); 1985 a. 7, 8, 29, 138, 513, 313; 1987 c. 27, 281, 354; 1987 a. 399 ss. 34 to 38, 38u; 1987 a. 403 s. 256; 1989 a. 31, 219, 227, 282, 284, 335, 336; 1991 a. 39, 269, 309, 315; 1993 a. 16, 166, 243, 437, 456, 497; 1995 a. 27, 42, 49, 460; 1997 a. 27, 192, 252, 264; 1999 a. 5, 9, 55, 185; 2001 a. 16, 38, 56, 103, 109; 2003 a. 33, 38, 133, 326, 327; 2005 a. 25; 2007 a. 20, 125, 223.

**SECTION 2.** 93.20 (2) of the statutes is amended to read:

93.20 (2) ENFORCEMENT COSTS ORDER. If a court imposes costs under s. 814.04 or 973.06 against a defendant in an action, the court may order that defendant to pay to reimburse the department ~~any of the~~ for reasonable, documented enforcement costs ~~specified under sub. (3) that~~ incurred by the department ~~has incurred to~~ prepare and prosecute that action. The prosecutor shall present evidence of the enforcement costs and the defendant shall be given an opportunity to refute that evidence. If any cost that a court orders a defendant to pay under this section may also be recovered by the department under s. 814.04 or 973.06, the department may recover that cost only under this section, but that cost is not limited to the amounts specified in s. 814.04 or 973.06.

**History:** 1991 a. 39; 1993 a. 213; 1995 a. 216; 2001 a. 16

**SECTION 3.** 93.20 (3) of the statutes is repealed.

**SECTION 4.** 93.20 (4) of the statutes is repealed.

**(END)**



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-0462/P1

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DOA:.....Miner, BB0141 - Enforcement cost recovery

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1     **AN ACT ...; relating to:** the budget.

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*Analysis by the Legislative Reference Bureau*

**AGRICULTURE**

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**SECTION 4.** 93.20 (4) of the statutes is repealed.

**(END)**